IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1937 OF 2006

Mahaashtra Aarey Sarita Sanchalak Sanghatana ... Petitioner

Versus

The General Manager, Greater Mumbai Milk Scheme, Mumbai and Ors. ... Respondents

Mr. R.V. Govilkar with Mr. Abhinandan Vagyani for Petitioner.

Ms. Geeta Shastri, A.G.P. for R. Nos. 1 and 3.

Ms. Shobha Ajitkumar for B.M.C. R. No. 2.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED: NOVEMBER 21, 2006

P.C.:

. According to Petitioner, The respondent Nos. 1 and 3 permitted setting up of milk centres which are known as Z Centre, Aarey Energy Centre and Aarey Sarita Centre. In Paragraph 5 of the Petition, the Petitioner has averred that by circular on 19.11.1996, the Respondent No. 1 by its circular converted the Aarey Energy Centres into Aarey Sarita Centre for the sale of Aarey Milk and 23 milk products on full time basis. On behalf of the Respondent No. 1, reply has been filed in which it is set out that pursuant to discussions between the members of the Petitioners and officers, the Government converted full time energy centres into Aarey Sarita and accordingly issued circulars.

. The major grievance of the Petitioner by this petition is that rent charged on Z centres, Aarey Energy Centres and Aarey Sarita Centres are different though all occupy similar areas. It is submitted that this is arbitrary and consequently liable to be struck down.

. The Respondent No. 1 has annexed as Exh. 1 to their affidavit, the decision taken at the meeting for the purpose of charging rates for setting up of the milk booths. There are three recognized categories as on 1.4.1998. All one time milk booths are being charged at the rate of Rs.75/-, two time milk booth is charged at Rs.150/- and Aarey Sarita at Rs.750/- instead of 15% of R.R. rate.

. Further contention on behalf of the Petitioner is that though Aarey Energy Centres have been converted into Aarey Sarita, those who are running Aarey Energy Centres are also selling the same products as those of Aarey Sarita Centre. There are no such averments in the petition and even Aarey Energy centres are selling the same or similar products as Sarita, then they are bound to pay the same rent. Not charging correct rates cannot confer a right to maintain this petition. Respodnnet will be bound to recover his fees in terms of the rates fixed.

. Another contention on behalf of the Petitioner is that the booths admeasuring 5x8, 10x4 and 14x7 are being charged the same rent. In so far as Z centres is concerned, areas are shown as 5x 8, 10x4 of Aarey Energy as 5x8 and 10x4 and for Aarey Sarita Centres that is charged is 5x8, 10x4 and 14x7. The grievance is that those who are having 14x7 are also charged at the same rate as those who have 10x4 as also 5 x 8. From the chart produced from B.M.C. it is seen that they are charging based on the kind of booths and not on the dimensions. If that be the basis, we do not see reason for interference. However, if it is the grievance of the Petitioner that those who are having booths of 14x7 should be charged more. That is for Respondent No. 1, 2 and 3 to consider if they should be charged more.

. Considering the above in our opinion, the Petitioners have failed to make out any case of arbitrariness or of discrimination and consequently we find no merit in the petition. Petition accordingly dismissed.

(ANOOP V. MOHTA,J.) **(F.I.REBELLO, J.)**